

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

WNS HOLDINGS, LLC, INTELLIGENT
TECHNOLOGIES INTERNATIONAL,
INC., and MARK ALAN EBERWINE,

Plaintiffs,

OPINION and ORDER

08-cv-275-bbc

v.

UNITED PARCEL SERVICE, INC.,

Defendant.

Plaintiffs WNS Holdings, LLC, Intelligent Technologies International, Inc., and Mark Alan Eberwine allege that avionics safety systems in airplanes operated by defendant United Parcel Service infringe United States Patent Nos. 6,314,366 and 5,351,194, owned by WNS Holdings; 6,405,132 and 7,295,925, owned by Intelligent Technologies International; and 5,392,052, owned by Eberwine. Pursuant to this court's preliminary pretrial conference order, defendant filed the present motion requesting patent claim construction.

The relevant portion of the preliminary pretrial order provides as follows:

Additionally, it is the party's burden to persuade the court that construction of each specified term is necessary to resolve a disputed issue concerning infringement or invalidity. If the moving party wants a claims construction hearing, then it must request one, specify which terms require a hearing and provide grounds why a hearing

actually is necessary for each specified term.

On October 24, 3008, defendant filed a motion requesting construction of 11 terms and claims construction hearing. Dkt. #54. I am persuaded that construction of 6 terms is necessary to resolve clearly disputed issues concerning infringement or invalidity. If the parties believe that construction of other terms is necessary, they may ask for construction of those terms at summary judgment or at trial. I agree that a claims construction hearing on the six terms identified would be useful both to educate the court and to assist the court in resolving the parties' disputes.

ORDER

IT IS ORDERED that:

1. The following 6 terms will be construed by the court:

- “report the status and location of the aircraft in response to the switch” as used in Claim 1 of plaintiff WSN Holding’s United States Patent No. 5,351,194;
- “data link” as used in Claim 1 of plaintiff WSN Holding’s United States Patent No. 6,314,366;
- “generating an onboard evasive maneuver” as used in Claim 1 of plaintiff WSN Holding’s United States Patent No. 6,314,366;
- “synchronizing the transmission of said evasive maneuver” as used in

Claim 1 of plaintiff WSN Holding's United States Patent No. 6,314,366;

- “positioning system . . . for determining the absolute position” as used in Claims 28 and 44 of plaintiff Intelligent Technologies International’s United States Patent No. 6,405,132; and
- “edges of at least one lane of the roadway” as used in Claim 28 of plaintiff Intelligent Technologies International’s United States Patent No. 6,405,132.

2. The clerk of court is directed to schedule a hearing on claims construction in this case for 9:00 am on Friday, January 9, 2009. Each side will have 90 minutes to present its argument or offer testimony in support of its proposed constructions.

Entered this 19th day of November, 2008.

BY THE COURT:

/s/

BARBARA B. CRABB
District Judge